

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ROBERT WALLACE and)
PATTY JO WALLACE,)
)
Plaintiffs,)
)
v.) No. 09-00775-CV-W-FJG
)
LAMONT E. TINDALL,)
WERNER ENTERPRISES, INC.)
d/b/a WERNER ENTERPRISES, and)
NORTHLAND INSURANCE COMPANY,)
)
Defendants.)

ORDER

Currently pending before the Court are defendants' objections to plaintiffs' deposition notices of defense experts (Doc. # 113).

Plaintiffs filed deposition notices with respect to four of defendants' retained experts. The depositions are scheduled to take place on April 22, 26, 27 and May 10, 2011. On April 20, 2011, defendants Lamont Tindall and Werner Enterprises objected to the deposition notices because they exceeded the scope of discovery permitted by the Federal Rules of Civil Procedure.

On February 1, 2011, the Court issued the Third Amended Scheduling Order in this case (Doc. # 97). The Scheduling Order specifically states in ¶ 7 a.2.:

Any further discovery relative to the information and opinions reflected in the expert affidavits shall be by Court order. The party requesting further discovery shall file a motion specifying what additional discovery is needed, and stating in detail why additional discovery is necessary. This motion shall be filed within five days of the close of discovery. The opposition to said request shall be filed within five days

thereafter. Counsel should be advised that this request for additional discovery will not be automatically granted.

¶ 7 b. states:

One of the **purposes of the expert affidavit** is to set forth the substance of a direct examination. If properly done, the expert affidavit should eliminate the need for deposing some experts. Consequently, the detailed statements in the affidavit are essential.

Accordingly, the Court hereby **SUSTAINS** defendants' objections to plaintiffs' deposition notices. Plaintiffs will not be allowed to take the depositions of any of defendants' expert witnesses unless they first file a motion with the Court stating what additional discovery is needed and explaining why the depositions are necessary.

Date: 04/21/11
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge